

# Council of the Isles of Scilly Delegated Planning Report Other application

**Application Number:** P/23/075/FUL & P/23/076/LBC

**UPRN:** 000192000033

**Received on:** 19 September 2023

**Valid on:** 3 October 2023

**Application Expiry date:** 28 November 2023

**Neighbour expiry date:** 25 October 2023

**Site notice posted:** 5 October 2023

**Site notice expiry:** 26 October 2023

**Applicant:** Mr Phil Moon On The Quay

**Site Address:** On The Quay  
The Quay  
Hugh Town  
St Mary's  
Isles Of Scilly  
TR21 0HU

**Proposal:** Installation of a pergola like awning on the existing balcony  
in the first floor. (Listed Building)

**Application Type:** Planning Permission & Listed Building Consent

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**Recommendation: Permit**

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## **Summary Conditions:**

1. Standard time limit
2. Adherence to plans
3. Hours of Operation for Construction Works
4. No lighting

## Reason for Delegated Decision

No Councillor has requested that the application come to the Full Council. The decision defaults to the level of Delegated:

- Not a Councillor ✓
- Not a Senior Officer (or Officer with influence over planning Decisions) ✓
- No relation to a Councillor/Officer ✓
- Not Major ✓
- Not Council's own application ✓
- Not a departure from the Development Plan ✓
- Not Called in ✓

### Lead Member Planning Agreed

Name: Cllr Marcus

Date: 16/10/2023

## Site Description and Proposed Development

The Quay and the Harbourside building are located on St Mary's on the north side of the west of St Mary's. The site is within the wider Isles of Scilly Conservation Area and Area of Outstanding Natural Beauty. On the Quay restaurant is located in the Harbourside building which is not a listed building in its own right but it is situated upon and therefore is listed as a fixture to the quay, which is a grade II listed building. This application relates to the existing balcony at first floor level which is used for outdoor seating for the restaurant.

The harbourside building is a mixture of facing materials constructed of granite, it is two storey with a slated pitched and half-hipped gable roof with gables facing to the north and south. To the rear (west) is a single storey flat roof extension, on which the extract ducting has been mounted. This faces into an industrial yard area which comprises a mixture of businesses and storage uses. The front east facing elevation is the principal elevation and contains a colonnade, providing shelter for people on the quay and above an outside seating area for the restaurant. The existing balcony is surrounded by light blue ballustrade approximately 1.5m in height lined with glass/polycarbonate to provide shelter from the wind.

This proposal is to erect a pergola style awning to be able to cover the outdoor seating area on the balcony. This would consist of light grey lightweight extruded aluminium frame with a retractable canopy that can be pulled out when weather dictates. There would be 5 upright posts spaced across the front of the balcony linked with cross members to the eaves of the building.

**Certificate:** B

**Other Land Owners:** Duchy of Cornwall

## Consultations and Publicity

The application has had a site notice on display for 21 days (05/10/2023 – 26/10/2023). The application appeared on the weekly list on 9<sup>th</sup> October 2023. Due to the nature of the proposal no external consultations are required.

## Representations from Residents:

Neighbouring properties written to directly:

- Harbour Masters Office, The Quay
- IOS Steamship Company, The Quay

[0] letters of objection have been received

[0] letters of support have been received

[0] letters of representation have been received.

## Relevant Planning History:

Planning history relevant under the 2005 Local Plan or the adopted 2015-2030 Local Plan

P/23/039/ADV – Granted - Fix a metal laser cut On the Quay logo to the external wall of the building on the left-hand side of the restaurant door, illuminated in a soft glow to ensure that it is visible during the darker hours of opening. 11/08/2023

P/21/025/FUL & P/21/026/LBC - Granted - Alterations to the second floor flat to include dormer window to increase head space for new shower room. Current lounge to be split into two bedrooms with an additional rooflight. (Listed Building). 15/06/2023

P/19/004/ADV - Granted - Erection of menu display cabinet by entrance to restaurant and company logo transfer on balcony glass. 21/03/2019

P/18/053/ADV - Granted - Place three signs on the harbourside building. One hanging sign outside the cafe and one outside the restaurant doorways and one on the south gable end at first floor. 01/08/2018

P/18/005/LBC & P/18/007/FUL – Granted - Extract Ventilation to rear of building which will include the formation of an aperture in the existing walls. (Listed Building) (Amended Plans). 04/05/2018

## Constraints:

- Conservation Area
- Area of Outstanding Natural Beauty
- Heritage Coast
- Listed Building
  - Grade II – The Pier (0m)
  - Grade II – Bank House, Pentland Flats, Scillonia (196m)
  - Grade II – Pier House (180m)
  - Grade I – Garrison Walls (222m)
- Scheduled Monument – Garrison Walls (222m)
- Archaeological Constraint Area – The Quay (0m)

- Flood Prone Land – St Mary's (0m)

### Planning Assessment

<b>Design</b>	<b>YES OR NO</b>
Would the proposal maintain the character and qualities of the area in which it is proposed?	y
Would the proposal appear in-keeping with the appearance of the existing dwelling, street and area?	y
Would the materials, details and features match the existing dwelling/building and be consistent with the general use of materials in the area?	y
Would the proposal leave adequate garden area and green space to prevent the proposal appearing as an overdevelopment of the site and to ensure an adequate level of amenity?	n/a
Is the parking and turning provision on site acceptable?	n/a
Would the proposal generally appear to be secondary or subservient to the main building?	y

<b>Amenity</b>	<b>YES OR NO</b>
Is the proposal acceptable with regard to any significant overlooking/loss of privacy issues?	y
Has the proposal been designed to respect the amenities of neighbouring properties avoiding unreasonable loss of light or an overbearing impact?	y
Is the proposal acceptable with regard to any significant change or intensification of use?	n

<b>Heritage</b>	<b>YES OR NO</b>
Would the proposal sustain or enhance the character and appearance of the Conservation Area?	y
If within the setting of, or a listed building, a) Will the development preserve the character and special architectural or historic interest of the building? b) Will the development preserve the setting of the building?	y
Within an Archaeological Constraint Area	y
<b>Other Impacts</b> Does the proposal comply with Highways standing advice such that it does not adversely affect highway safety?	n/a
Impact on protected trees a) Will this be acceptable b) Can impact be properly mitigated?	n
Has the proposal been designed to prevent the loss of any significant wildlife habitats or proposes appropriate mitigation where this has been	n/a

demonstrated to be unavoidable?	
Does the proposal conserve and enhance the landscape and scenic beauty of the AONB	y
Are the Water connection/foul or surface water drainage details acceptable?	n/a
If sited within a Critical Flood Risk Area (low lying land below the 5m datum) is the application accompanied by an acceptable Flood Risk Assessment?	n/a
Are there external lights	n

<b>Protected Species</b>	<b>YES OR NO</b>
Does the proposal include any re-roofing works or other alteration to the roof	n
Does the proposal include any demolition	n
Does the proposal include tree or hedge removal	n
Is an assessment of impact on protected species required	n
Has an assessment been provided that adequately assesses the site and includes mitigation, enhancement and timing requirements	n/a
Are biodiversity enhancement measures required	n
Is a condition required to provide biodiversity enhancement measures	n

<b>Waste Management</b>	<b>YES OR NO</b>
Does the proposal generate construction waste	n
Does the proposal materially increase the use of the site to require additional long-term waste management facilities	n
Does the proposal include a Site Waste Management Plan	n
Is a condition required to secure a Site Waste Management Plan	n

<b>Sustainable Design</b>	<b>YES OR NO</b>
Does the proposal materially increase the use of the site to require additional sustainable design measures	n/a
Does the proposal include a any site specific sustainable design measures	n/a
Is a condition required to secure a Sustainable Design Measures	n/a

**Analysis:** The harbourside building on the Quay is listed by virtue of being attached to a listed building (St Mary's Quay):

*Quay and breakwater. Begun by Francis Godolphin soon after 1601, rebuilt 1740 and 1748; new pier extending north to Rat Island built 1835-8 for Augustus Smith, Lord Proprietor of the Islands; lengthened 1889 for the flower trade. Granite rubble to earlier arm into harbour partly in vertically-coursed dry stonewall technique, and shaped granite blockwork to later arms. Breakwater has canted wall on sea side. Two granite piers at south entrance and cast-iron upturned cannon reused as bollards. The construction of a pier for the new harbour, St. Mary's Port, was associated with the fortification of the*

*Hugh begun by Godolphin which included Star Castle and the Garrison walls (q.v.). (B.H. St.J.O'Neil: Isles of Scilly: London (HMSO): 1950-: 26; Borlase, William: Observations on the .... Islands of Scilly: Oxford: 1754-: 14).*

The building has been modified over the years, as evidenced in the planning history noted above. The colonnade, which encompasses the balcony above was added in 2015. The proposal to add the pergola structure will fit within the existing balustrade arrangement.

The additional structure is relatively lightweight addition that will not result in harm to the original fabric of the quay or impact upon it setting. The proposal is considered acceptable.



**EIA:** Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

**Proactive working:** In accordance with guidance within the National Planning Policy Framework the Council has worked in a positive and creative way and has concluded that the application is acceptable for planning approval/imposed conditions to enable the grant of planning permission.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This application has been considered in accordance with Sections 16, 17, and 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990

**Planning Policy:** Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 2021, the development plan for the Isles of Scilly comprises the Isles of Scilly Local Plan 2015-2030.

The relevant development plan policies that have been taken into consideration are set out below:

### Isles of Scilly Local Plan, 2015-2030

Policy	Tick if Used ✓
Policy SS1 Principles of Sustainable Development	
Policy SS2 Sustainable quality design and place-making	
Policy SS3 Re-use of Buildings	
Policy SS4 Protection of retailing, recreation and community facilities	
Policy SS5 Physical Infrastructure	
Policy SS6 Water and Wastewater Management	
Policy SS7 Flood Avoidance and Coastal Erosion	
Policy SS8 Renewable Energy Developments	
Policy SS9 Travel and Transport	
Policy SS10 Managing Movement	
Policy OE1 Protecting and Enhancing the landscape and seascape	✓
Policy OE2 Biodiversity and Geodiversity	
Policy OE3 Managing Pollution	
<i>Policy OE4 Protecting Scilly's Dark Night Skies</i>	
Policy OE5 Managing Waste	
Policy OE6 Minerals	
Policy OE7 Development affecting heritage	✓
Policy LC1 Isles of Scilly Housing Strategy to 2030	
Policy LC2 Qualifying for Affordable Housing	
Policy LC3 Balanced Housing Stock	
Policy LC4 Staff Accommodation	
Policy LC5 Removal of Occupancy Conditions	
Policy LC6 Housing Allocations	
Policy LC7 Windfall Housing:	
Policy LC8 Replacement Dwellings and Residential Extensions	
Policy LC9 Homes in Multiple Occupation	
Policy WC1 General Employment Policy	
Policy WC2 Home based businesses	
Policy WC3 New Employment Development	
Policy WC4 Alternative Uses for Business/Industrial land and buildings	
Policy WC5 Visitor Economy and Tourism Developments	

Info Requirements	Submitted (LVC)	Not Submitted	Condition Required
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Site Waste Management Plan			
Sustainable Design Measures			
Biodiversity Enhancement Measures:			

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG).

**Considerations under Human Rights Act 1998 and Equalities Act 2010:** The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

In discharging their functions, must have “due regard” to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard in particular to the need to:

- a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of other persons who do not share it
- c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has had due regard to the matters set out in section 149 of the Equality Act 2010.

**Recommended Conditions:**

**C1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: In accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

**C2 No construction plant and/or machinery shall be operated on the premises, as part of the implementation of this permission, before 0800 hours on Mondays through to Saturdays nor after 1800 hours. There shall be no works involving construction plant and/or**



**machinery on a Sunday or Public or Bank Holiday.**

Reason: In the interests of protecting the residential amenities of the islands.

**C3 No part of the canopy/ pergola structure, hereby approved, shall be illuminated.**

Reason: To preserve the scenic beauty of the Isles of Scilly as a designated Area of Outstanding Natural Beauty which includes its Dark Night Skies in accordance paragraph 176 of the National Planning Policy Framework 2021 and Policy OE4 of the Isles of Scilly Local Plan 2015-2030.

**C4 The development hereby permitted shall be carried out in accordance with the approved details only including:**

- **Plan 1 Existing Location and Block Plan**
- **Plan 2 Proposed Block Plan**
- **Plan 3 Proposed Side and Front Elevation**
- **Plan 4 Proposed North Elevation**
- **Plan 5 Heritage Design and Access Statement**

**These are stamped as APPROVED**

Reason: For the clarity and avoidance of doubt and in the interests of the character and appearance of the Listed Building and Conservation Area, Area of Outstanding Natural Beauty and Heritage Coast in accordance with Policies OE1 and OE7 of the Isles of Scilly Local Plan 2015-2030.

<b>Print Name:</b>	Lisa Walton	28/11/2023
<b>Job Title:</b>	Chief Planning Officer	
<b>Signed:</b>		
	Authorised Officer with Delegated Authority to determine Planning Applications	